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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.          | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------|------------------|
| 10/774,556  | 02/09/2004  | James Finn           | 006163.00004                 | 8975             |
| 22908   | 7590        | 01/20/2006           |                              |                  |
| BANNER & WITCOFF, LTD.<br>TEN SOUTH WACKER DRIVE<br>SUITE 3000<br>CHICAGO, IL 60606 |             |                      | EXAMINER<br>KLEIN, GABRIEL J |                  |
|   |             |                      | ART UNIT                     | PAPER NUMBER     |
|   |             |                      | 3641                         |                  |

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/774,556

Applicant(s)

FINN, JAMES

Examiner

Gabriel J. Klein

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 11-19 and 25-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 20-24 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                                     |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Group I, claims 1-10 and 20-24, in the reply filed on December 21, 2005 is acknowledged.

### ***Claim Objections***

Claim 22 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 22 states: "...wherein the slot is configured to receive a tab on the tabbed magazine." This exact language is found in claim 20, line 5.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 and 20-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Garret (5519954).

In reference to claims 1, 20, and 22, Garret discloses a firearm having a receiver configured to receive a tabbed magazine, with the capability to remove said tabbed magazine with one hand, comprising:

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- a receiver well configured to control movement of the tabbed magazine when the tabbed magazine is inserted into the receiver well (figures 1, 2, and 6-8);
- a slot in the receiver well, wherein the slot is configured to receive a tab on the tabbed magazine when the tabbed magazine is inserted into the receiver well (figures 1, 2, and 6-8, in figures 6-8 the tab of the magazine and the corresponding slot are shown at the leftmost side of the magazine, element 30); and
- a magazine catch, said magazine catch being capable of engaging a locking feature on the tabbed magazine when the tabbed magazine is inserted into the receiver well (figure 6, elements 34 and 52). Further, said magazine catch having an engaged position and a disengaged position, said locking feature being located in a rib of said magazine (figure 1, element 34), and wherein moving the magazine catch from the engaged position toward the disengaged position causes the magazine catch to disengage the locking feature so that the tabbed magazine can drop out of the receiver well (figures 6-8).

In reference to claim 2, Garret further discloses a receiver stop, said receiver stop being capable of preventing over insertion of the tabbed magazine. Said receiver stop comprising the top of the receiver (not shown in the drawings, but inherently a component of said firearm). Further, said receiver stop comprises element 32 in figure 1, which is a protrusion from the side of said tabbed magazine that catches on the

bottom face of said magazine catch (figure 6) preventing over insertion of said tabbed magazine into said receiver well.

In reference to claim 3, Garret further discloses that said receiver stop, said magazine catch, and said receiver well hold the magazine in place. Said receiver stop and said magazine catch controlling movement in and out of said receiver well, while said receiver well controls any side to side movement of said magazine.

In reference to claims 4 and 21, Garret further discloses that said receiver well includes a rib for engaging said tabbed magazine, said rib being capable of controlling movement of said tabbed magazine when said tabbed magazine is inserted into the receiver well (said rib can be seen clearly in figures 1, 2, and 6-8 inside the receiver well on the longer sides of said receiver well).

In reference to claim 5, Garret further discloses that said receiver well includes a chamfer capable of aiding in the insertion of said tabbed magazine (figures 1 and 2). It should be appreciated that it can be clearly seen in Applicant's drawings, specifically figure 10a, said chamfer is rounded. The chamfer shown in figures 1 and 2 of Garret's disclosure show the exact same structure.

In reference to claims 6 and 23, Garret further discloses that said firearm comprises a magazine release button. Inherently, said firearm has a right and left side. Furthermore, said magazine release button is accessible from either the right or left side of said receiver (figures 7 and 8). Said magazine release button capable of disengaging said magazine catch.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garret in view of Elbe et al (4058922) and further in view of Ludwig et al (4326353). Garret discloses the claimed invention except for the ambidextrous bolt stop button. Elbe et al teaches that it is known to use a bolt stop button as set forth in column 2, paragraph 4, to provide manual means for activating the bolt catch so as to hold the bolt in an open position in order to visually inspect a chamber of said firearm. Ludwig et al teaches that it is known to use an ambidextrous magazine release button, as set forth in the abstract, to provide a user with the capability and convenience of releasing a magazine from a firearm using either hand, therefore accommodating both right handed and left handed shooters. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bolt stop button as taught by Elbe et al, with the ambidextrous design as taught by Ludwig et al, since such a modification would provide an ambidextrous bolt stop button to provide manual means for activating the bolt catch, from either side of said firearm, therefore accommodating both right handed and left handed shooters. Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the firearm as taught by Garret, with the ambidextrous bolt stop button taught

by Elbe et al in view of Ludwig et al, since such a modification would provide the firearm with the ambidextrous bolt stop button to provide an ambidextrous bolt stop button to provide manual means for activating the bolt catch, from either side of said firearm, therefore accommodating both right handed and left handed shooters, so as to hold the bolt in an open position in order to visually inspect a chamber of said firearm.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garret in view of Ludwig et al. Garret discloses the claimed invention except for the magazine catch being rotatably mounted to the receiver and the translation of the magazine release button causing the magazine catch to rotate. Ludwig teaches that it is known to use a magazine catch being rotatably mounted to the receiver and the translation of the magazine release button causing the magazine catch to rotate as set forth in figures 5-8 to provide a simple (therefore less expensive), ambidextrous, method of releasing a magazine from a receiver well. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the firearm as taught by Garret, with the magazine catch being rotatably mounted to the receiver and the translation of the magazine release button causing the magazine catch to rotate as taught by Ludwig, since such a modification would provide the firearm with the magazine catch being rotatably mounted to the receiver and the translation of the magazine release button causing the magazine catch to rotate to provide a simpler, less expensive, ambidextrous means for releasing said magazine from said receiver well.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garret in view of Johnson (4709496). Garret discloses the claimed invention except for the

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magazine follower. Johnson teaches that it is known to use a magazine follower as set forth in column 8, paragraph 2, to provide an automatic latching means for the bolt stop latch upon firing of the last round in the magazine to keep the bolt out of battery so as to facilitate easy loading of a firearm. It would have been obvious to one having ordinary skill in art at the time that the invention was made to modify the firearm (specifically the tabbed magazine) as taught by Garret, with the magazine follower as taught by Johnson, since such a modification would provide the firearm (specifically the tabbed magazine) with the magazine follower to provide an automatic latching means for the bolt stop latch upon firing of the last round in the magazine to keep the bolt out of battery so as to facilitate easy loading of said firearm.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smith et al (4521985), Holloway (4579034), Beretta (4615134), Hurley (5588241), and Luth (6293040).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabriel J. Klein whose telephone number is 571-272-8229. The examiner can normally be reached on Monday through Friday 7:15 am to 3:45 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GJK

  
Michael Carone  
SPE 3641